

REMARKS

Claims 28-32 are pending, upon entry of the amendment submitted above. Favorable reconsideration is respectfully requested.

Applicants would like to thank Examiner Fronda for the helpful and courteous discussion held with their representative on August 25, 2004. During the discussion, amendments were discussed to obviate the rejection based on the cited references. The Examiner explained his position that the claims are product-by-process and therefore, in the Examiner's opinion, the product of the claims must be distinguished from the compositions described in the cited references. The following remarks expand on the discussion with the Examiner.

The present invention relates to a fertilizer comprising an organic nitrogen-containing composition comprising fermentation mother liquor obtained by culturing the strain of *Enterobacter agglomerans* in a liquid medium the pH of which is adjusted to 5.0 or less, to allow L-glutamic acid to be produced and accumulated, which is accompanied by precipitation of L-glutamic acid, and then separating L-glutamic acid from the medium, where the fertilizer comprises cells of a strain of *Enterobacter agglomerans* having L-glutamic acid-producing ability.. See Claim 28.

Thus, an important feature of the fertilizer is that it contains cells of *Enterobacter agglomerans*. See the last two lines of Claim 28.

The rejections of the claims under 35 U.S.C. §102(b) or §103(a) over Ter-Sarkesyan et al. (Abstract) or JP 50-129363 (JP '363, Abstract) are respectfully traversed. Those references fail to disclose or suggest the claimed fertilizer.

Ter-Sarkesyan et al. disclose a fertilizer obtained by combining and neutralizing spent culture broth, wash water, and mother liquor from a crystallization stage. The culture broth is obtained by culturing a microorganism under neutral pH to accumulate L-glutamic acid in a medium and then acidifying the post culture broth to pH 0.8-1.2 to precipitate L-glutamic acid. See the Abstract

Ter-Sarkesyan et al. fail to disclose that the fertilizer contains cells of *Enterobacter agglomerans*. In fact, the Abstract fails to mention such cells at all. Accordingly, that reference fails to disclose or suggest the claimed fertilizer.

The fertilizer disclosed in JP '363 is obtained by culturing *Brevibacterium thiogenitalis*. See the Abstract. Thus, JP '363 fails to disclose a fertilizer that contains cells of *Enterobacter agglomerans*. Since the reference fails to even mention such cells, it certainly does not suggest such a fertilizer.

In view of the foregoing, Claims 28-32 are neither anticipated by nor obvious over Ter-Sarkesyan et al. or JP '363. Accordingly, withdrawal of these grounds of rejection is respectfully requested.

Applicants submit that the present application is in condition for allowance. Early notice to that effect is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon

Customer Number
22850



James J. Kelly, Ph.D.
Registration No. 41,504

Tel: (703) 413-3000
Fax: (703) 413 -2220
NFO/JK/asa